

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DEENA H.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

CASE NO. C24-5713-BAT

**ORDER REVERSING AND  
REMANDING FOR FURTHER  
ADMINISTRATIVE PROCEEDINGS**

Plaintiff seeks review of the denial of her application for Supplemental Security Income and Disability Insurance Benefits. She contends the ALJ erroneously rejected her testimony and the medical opinions and erred in finding she had no severe mental impairments; she seeks remand for an immediate award of benefits and alternatively further administrative proceedings. Dkt. 10. The Court **REVERSES** the Commissioner's final decision and **REMANDS** the matter for further administrative proceedings under sentence four of 42 U.S.C. § 405(g).

**BACKGROUND**

Plaintiff is currently 47 years old, has at least a high school education, and has worked as an administrative clerk. Tr. 259, 297, 957. She applied for benefits in October 2018, alleging disability as of October 1, 2015; she later amended her alleged onset date to April 1, 2018. Tr.

58, 259. After her applications were denied initially and on reconsideration, the ALJ conducted a

1 hearing and, on March 10, 2021, issued a decision finding plaintiff not disabled. Tr. 15-34.  
2 Plaintiff sought judicial review, and the parties stipulated to a remand for further administrative  
3 proceedings. Tr. 1015-19. On remand, the ALJ conducted another hearing and, on May 1, 2024,  
4 issued a second decision finding plaintiff not disabled. Tr. 939-58. Plaintiff now seeks judicial  
5 review of the May 2024 decision.

### 6 THE ALJ'S DECISION

7 Utilizing the five-step disability evaluation process,<sup>1</sup> the ALJ found plaintiff had not  
8 engaged in substantial gainful activity since the alleged onset date; plaintiff had the following  
9 severe impairments: bilateral hearing loss, fibromyalgia, and migraine headaches; and these  
10 impairments did not meet or equal the requirements of a listed impairment. Tr. 942, 948. The  
11 ALJ found plaintiff had the residual functional capacity to perform light work except she can  
12 occasionally crawl and climb ladders, ropes, and scaffolds and she can have occasional exposure  
13 to vibration, extremely cold temperatures, loud noise, and bright light. Tr. 948. The ALJ found  
14 plaintiff could perform her past relevant work as an administrative clerk and that she was  
15 therefore not disabled. Tr. 957-58.

### 16 DISCUSSION

17 The Court will reverse the ALJ's decision only if it is not supported by substantial  
18 evidence in the record as a whole or if the ALJ applied the wrong legal standard. *Molina v.*  
19 *Astrue*, 674 F.3d 1104, 1110 (9th Cir. 2012). The ALJ's decision may not be reversed on account  
20 of an error that is harmless. *Id.* at 1111. The Court may neither reweigh the evidence nor  
21 substitute its judgment for that of the Commissioner. *Thomas v. Barnhart*, 278 F.3d 947, 954  
22  
23

---

<sup>1</sup> 20 C.F.R. §§ 404.1520, 416.920.

1 (9th Cir. 2002). Where the evidence is susceptible to more than one rational interpretation, the  
2 Court must uphold the Commissioner's interpretation. *Id.*

3 **A. Plaintiff's testimony**

4 Plaintiff argues the ALJ erroneously rejected her testimony. Dkt. 10 at 2. Where, as here,  
5 the ALJ did not find plaintiff was malingering, the ALJ must provide clear and convincing  
6 reasons to reject her testimony. *See Vertigan v. Halter*, 260 F.3d 1044, 1049 (9th Cir. 2001). An  
7 ALJ does this by making specific findings supported by substantial evidence. "General findings  
8 are insufficient; rather, the ALJ must identify what testimony is not credible and what evidence  
9 undermines the claimant's complaints." *Lester v. Chater*, 81 F.3d 821, 834 (9th Cir. 1996). In  
10 other words, an ALJ's finding that a claimant's testimony is not credible must be "sufficiently  
11 specific to allow a reviewing court to conclude the adjudicator rejected the claimant's testimony  
12 on permissible grounds and did not arbitrarily discredit a claimant's testimony regarding pain."  
13 *Brown-Hunter v. Colvin*, 806 F.3d 487, 493 (9th Cir. 2015). A conclusory statement rejecting a  
14 claimant's testimony that fails to identify specifically which statements the ALJ found not  
15 credible and why is not sufficient to reject a claimant's testimony, even when that statement is  
16 followed by a summary of the evidence. *Id.*

17 Plaintiff argues the ALJ erroneously relied on a lack of objective physical findings to  
18 discount her testimony about the effects of fibromyalgia. Dkt. 10 at 4. With respect to plaintiff's  
19 allegations of pain due to fibromyalgia, the ALJ noted physical examinations documented  
20 findings such as soft tissue tenderness and limited range of motion in the hips, knees wrist, and  
21 spine due to pain. Tr. 952. But the ALJ found despite plaintiff's reported pain levels, there were  
22 also observations of intact strength and sensation, full neck range of motion, and warm and  
23 perfused extremities without edema. *Id.*

1 The ALJ's reliance on a lack of objective findings to support plaintiff's allegations of  
2 fibromyalgia pain is inconsistent with the nature of fibromyalgia, which is diagnosed based on  
3 the patient's reports of pain and other symptoms, with no laboratory tests to confirm the  
4 diagnosis. *Revels v. Berryhill*, 874 F.3d 648, 663 (9th Cir. 2017). Moreover, the ALJ  
5 acknowledged several physical findings consistent with plaintiff's allegations, namely tenderness  
6 and limited range of motion due to pain, while at the same time failing to explain how other  
7 physical findings, such as intact strength and no edema, undermined her pain complaints. The  
8 ALJ erroneously evaluated the objective findings when assessing plaintiff's complaints of  
9 fibromyalgia pain.

10 Plaintiff also argues the ALJ erred in relying on findings that plaintiff was in no acute  
11 distress, asserting "no acute distress" is of little relevance for an individual suffering from a  
12 chronic condition. Dkt. 10 at 4-5. The ALJ found the alleged severity of plaintiff's pain  
13 symptoms and lack of relief from treatment was not well supported by numerous examinations  
14 finding that she was in no acute distress. Tr. 952-53. Even though the ALJ cited to treatment  
15 records containing the notation "no acute distress" or similar phrases, the ALJ provided no  
16 explanation as to what testimony these findings undermined or how findings of no acute distress  
17 were inconsistent with plaintiff's reports of chronic pain. This conclusory finding was  
18 insufficient to discount plaintiff's testimony.

19 Plaintiff argues the ALJ erred by discounting her testimony because she received only  
20 conservative treatment. Dkt. 24 at 5. The ALJ noted plaintiff underwent treatment for  
21 fibromyalgia and/or headaches that included aqua therapy, transcutaneous electric nerve  
22 stimulation, Botox injections, and medications including migraine medications, Lyrica, and  
23 morphine, but concluded that overall plaintiff had been maintained on a routine regimen of

1 medications. Tr. 950. The ALJ also noted Alexander Lee, D.O., plaintiff's primary care provider,  
2 stated medications prevent plaintiff from being "bed/chair/home bound," reduce her pain, and  
3 allow her to exercise, do hobbies, and perform routine activities of daily living, finding that this  
4 was inconsistent with plaintiff's testimony that medications do not help. *Id.*

5 Evidence of minimal or conservative treatment can be a valid consideration when  
6 assessing a claimant's credibility. *Tommasetti v. Astrue*, 533 F.3d 1035, 1039 (9th Cir. 2008).  
7 But an evaluation of the aggressiveness of a treatment routine must take into account the  
8 condition being treated. *Revels*, 874, F.3d at 667. In this case, the ALJ did not identify any  
9 treatment recommendations plaintiff failed to pursue, instead identifying numerous different  
10 treatments plaintiff attempted in an effort to relieve her symptoms. Such efforts do not align with  
11 a finding of pursuing only minimal or conservative treatment. Moreover, the ALJ did not explain  
12 how treatments plaintiff underwent were "conservative" when they are typical treatments for  
13 fibromyalgia, nor did the ALJ identify what he would consider to be "aggressive" fibromyalgia  
14 treatment. *See id.* (ALJ erred in rejecting claimant's testimony based on supposedly conservative  
15 treatment, where the treatment included injections and numerous medications). And contrary to  
16 the ALJ's characterization of plaintiff's testimony, she did not testify that medications did not  
17 help. Rather, plaintiff testified that some medications helped but she was unable to continue  
18 taking them because her insurance would not cover them, and other medications gave her partial  
19 or temporary relief, including sometimes reducing her pain to a level where she could be out of  
20 bed and sit and read a book with her grandson. Tr. 65, 927, 930. The fact plaintiff stopped taking  
21 some medications because of insurance coverage issues and continued taking other medications  
22 that partially or sometimes helped relieve her symptoms does not establish that she rejected  
23

1 aggressive treatment. The ALJ erred in discounting plaintiff's testimony based on the nature of  
2 her treatment.

3 Plaintiff argues, and the Court agrees, the ALJ relied on similarly flawed reasons to  
4 discount her testimony about her headaches. Dkt. 10 at 6-7. The ALJ relied on the same  
5 erroneous findings discussed above regarding the minimal/conservative nature of plaintiff's  
6 treatment and improvement with medication to discount plaintiff's testimony about her  
7 migraines. Tr. 950. The ALJ also relied on a lack of objective findings to support the degree of  
8 limitation plaintiff alleged, discussing the findings of a neurological consult by Jebin Chacko,  
9 M.D., in January 2019. Tr. 950-51. But as with fibromyalgia, primary headache disorders are  
10 diagnosed after excluding alternative physical or psychiatric causes. SSR 19-4p. Dr. Chacko  
11 found plaintiff met the criteria for chronic migraine, noted that she had tried multiple  
12 preventatives without success, and recommended that she try Botox or other new medications.  
13 Tr. 655. The ALJ did not explain how Dr. Chacko's findings undermined plaintiff's testimony.  
14 This was insufficient to discount plaintiff's testimony on the basis of a lack of objective findings.

15 The ALJ also found plaintiff had only periodic neurology visits to treat her migraines  
16 with gaps from one to almost two years, with generally no intervening primary care or  
17 emergency room visits for headaches in between. Tr. 952. The ALJ concluded this showed that  
18 treatments with periodic adjustments to her medications have manages her migraines and were  
19 inconsistent with her allegations. *Id.* But the ALJ again failed to consider the nature of the  
20 impairment being treated. *Revels*, 874, F.3d at 667. SSA guidelines state primary headache  
21 disorders sometimes warrant emergency department visits, but the purpose of such a visit is to  
22 rule out other causes, initiate acute therapy, and provide referrals to an appropriate provider for  
23 further care. SSR 19-4p. The ALJ failed to explain how plaintiff's failure to pursue emergency

1 treatment when she was already under the care of a neurologist undermines her complaints, and  
2 failed to identify recommendations for more frequent neurological care that plaintiff failed to  
3 pursue.

4 Plaintiff argues the ALJ erred in relying on her daily activities in discounting her  
5 testimony. Dkt. 10 at 8. An ALJ may consider a claimant's daily activities when evaluating her  
6 credibility. *Light v. Soc. Sec. Admin.*, 119 F.3d 789, 792 (9th Cir. 1997). But the ALJ may not  
7 penalize a claimant for attempting to live a normal life in the face of her limitations. *See Cooper*  
8 *v. Bowen*, 815 F.2d 557, 561 (9th Cir. 1987). Contradictions between a claimant's reported  
9 activities and her asserted limitations are an issue of credibility. *Morgan v. Comm'r of Soc. Sec.*  
10 *Admin.*, 169 F.3d 595, 600 (9th Cir. 1999).

11 The ALJ described plaintiff's reported activities, including the ability to drive, play  
12 games, cook, bake, swim, and watch movies, and found that while disability and the ability to  
13 engage in these activities are not mutually exclusive, plaintiff's ability to perform these activities  
14 and others suggest that her symptoms were not as severe or as limiting as she asserted them to  
15 be. Tr. 953. But the ALJ did not explain how any of these activities are transferrable to a work  
16 setting or identify any specific contradictions between plaintiff's ability to perform these  
17 activities and her testimony. The ALJ also failed to consider the manner in which plaintiff  
18 performed these activities, such as plaintiff's testimony in 2021 that she could drive short  
19 distances if she had not had a migraine spike but otherwise needed a ride, and her testimony in  
20 2024 that she could no longer drive without "pass[ing] out for the day" after. Tr. 70, 928.

21 Although the ALJ is correct that disability and the ability to engage in the sort of activities he  
22 identified are not mutually exclusive, the ALJ did not explain how plaintiff's ability to perform  
23 the activities he identified in fact excluded her from being disabled. The ALJ's conclusory

1 statement to the contrary was insufficient to support the finding that plaintiff's activities were  
2 inconsistent with her claimed limitations.

3 The Court finds the ALJ erred by failing to give clear and convincing reasons, supported  
4 by substantial evidence, for discounting plaintiff's testimony.

5 **B. Medical opinions**

6 Plaintiff argues the ALJ erred in rejecting the opinions of Dr. Lee and Dr. Chacko. Dkt.  
7 10 at 10. When considering medical opinions, the ALJ considers the persuasiveness of the  
8 medical opinion using five factors (supportability, consistency, relationship with claimant,  
9 specialization, and other), but supportability and consistency are the two most important factors.  
10 20 C.F.R. §§ 404.1520c(b)(2), 416.920c(b)(2), (c) (2017). The ALJ must explain in her decision  
11 how she considered the factors of supportability and consistency. 20 C.F.R. §§ 404.1520c(b),  
12 416.920c(b) (2017). The ALJ is not required to explain how she considered the other factors,  
13 unless the ALJ finds that two or more medical opinions or prior administrative medical findings  
14 about the same issue are both equally well-supported and consistent with the record, but not  
15 identical. 20 C.F.R. §§ 404.1520c(b)(3), 416.920c(b)(3) (2017). The new regulations supplant  
16 the hierarchy governing the weight an ALJ must give medical opinions and the requirement the  
17 ALJ provide specific and legitimate reasons to reject a treating doctor's opinion. *Woods v.*  
18 *Kijakazi*, 32 F.4th 785, 792 (9th Cir. 2022). An ALJ cannot reject a doctor's opinion as  
19 unsupported or inconsistent without providing an explanation supported by substantial evidence.  
20 *Id.*

21 *I. Dr. Lee*

22 In December 2020, Dr. Lee opined plaintiff could perform sedentary work, she has to lie  
23 down 1 to 2 hours during the day due to pain, she would miss 4 or more days of work per month,



1 and working on a continuous basis would cause her condition to deteriorate. Tr. 769-70. The ALJ  
2 determined this opinion not persuasive, finding it relied heavily on plaintiff's self-report of  
3 symptoms and was inconsistent with findings of no acute distress. Tr. 955. The ALJ further  
4 found inconsistencies that undermined plaintiff's self-reports undermined the persuasiveness of  
5 Dr. Lee's opinion. *Id.* And the ALJ found the opinion was inconsistent with and unsupported by  
6 examination findings by Dr. Lee and others, Dr. Lee's treatment notes that show improvement  
7 with medication, and Dr. Lee's recommendation that plaintiff exercise. Tr. 955-56.

8 Plaintiff argues the ALJ failed to give valid reasons for finding Dr. Lee's opinion  
9 unpersuasive. Dkt. 10 at 11. The Court agrees. Although the ALJ noted fibromyalgia and  
10 migraines are not always associated with abnormal vital signs, he found the opinion not  
11 persuasive because it relied heavily on plaintiff's self-reports and was unsupported by objective  
12 findings. An ALJ may not substitute his own interpretation of the medical evidence for the  
13 opinion of a medical professional. *See Tackett v. Apfel*, 180 F.3d 1094, 1102-03 (9th Cir. 1999).  
14 And an ALJ does not provide adequate reasons for rejecting a doctor's opinion by questioning  
15 the credibility of the patient's complaints where the doctor does not discredit those complaints  
16 and supports his ultimate opinion with his own observations. *Edlund v. Massanari*, 253 F.3d  
17 1152, 1159 (9th Cir. 2001). Dr. Lee accounted for the lack of objective tests, stating plaintiff's  
18 "conditions are not diagnosed with standard tests (which have been normal)." Tr. 769. And there  
19 is no indication he discredited plaintiff's reports of symptoms or based his opinion on anything  
20 other than his own assessment of plaintiff's limitations. The ALJ's reliance on his own  
21 interpretation of the medical evidence and his own assessment of plaintiff's credibility where Dr.  
22 Lee did not question her reports was erroneous.

1 The ALJ again relied on the findings plaintiff was in no acute distress at numerous  
2 medical appointments. As with the ALJ's assessment of plaintiff's testimony, the ALJ failed to  
3 provide an explanation supported by substantial evidence for how findings of no acute distress  
4 undermined Dr. Lee's assessment of plaintiff's chronic conditions. In addition, the ALJ failed to  
5 explain how Dr. Lee's statement that plaintiff's medication kept her from being "bed/chair/home  
6 bound" or recommendation that she engage in exercise, a standard treatment for fibromyalgia,  
7 were inconsistent with his opinion that plaintiff was limited to sedentary work, would have to lie  
8 down during the workday, and would miss at least four workdays per month. The ALJ failed to  
9 provide valid reasons, supported by substantial evidence, for finding Dr. Lee's opinion not  
10 persuasive.

11 2. *Dr. Chacko*

12 Dr. Chacko opinion in January 2021 plaintiff would need to lie down during the workday  
13 due to daily headaches, she would miss 4 or more days of work per month, and working on a  
14 continuous basis would cause her condition to deteriorate. Tr. 772-73. The ALJ found this  
15 opinion not persuasive, on the grounds Dr. Chacko appeared to rely heavily on plaintiff's self-  
16 reports, the record does not show Dr. Chacko treated plaintiff before 2019 despite his opinion  
17 that these limitations had lasted 9 years, and Dr. Chacko did not provide any medical signs to  
18 support his opinion. Tr. 956. The ALJ further found inconsistencies that undermined plaintiff's  
19 self-reports undermined the persuasiveness of Dr. Chacko's opinion, and Dr. Chacko's opinion  
20 was inconsistent with the objective evidence, including his own examination findings. *Id.*

21 The ALJ's assessment of Dr. Chacko's opinion suffers from the same errors as his  
22 assessment of Dr. Lee's. The ALJ again relied on his own interpretation of the medical evidence,  
23 including Dr. Chacko's own findings, and his own assessment of plaintiff's credibility where Dr.

1 Chacko did not question her reports. These reasons are invalid. Similarly, the ALJ relied on  
2 reports of plaintiff's improvement with medication, gaps in treatment, and activities of daily  
3 living to find the opinion unpersuasive, all of which the Court has discussed above and found to  
4 be invalid reasons to discount evidence. The ALJ failed to provide valid reasons, supported by  
5 substantial evidence, for finding Dr. Chacko's opinion not persuasive.

### 6 **C. Mental impairments**

7 Plaintiff argues the ALJ erred in finding she had no severe mental impairments at step  
8 two. Dkt. 10 at 14. At step two, a claimant must make a threshold showing that (1) she has a  
9 medically determinable impairment or combination of impairments and (2) the impairment or  
10 combination of impairments is severe. *See Bowen v. Yuckert*, 482 U.S. 137, 146 (1987); 20  
11 C.F.R. § 404.1520(c), 416.920(c). An impairment or combination of impairments can be found  
12 "not severe" only if the evidence establishes a slight abnormality that has no more than a  
13 minimal effect on an individual's ability to work. *Smolen v. Chater*, 80 F.3d 1273, 1290 (9th Cir.  
14 1996). The step-two inquiry has been characterized as "a *de minimis* screening device to dispose  
15 of groundless claims." *Id.*

16 When evaluating whether a mental impairment is severe, the ALJ must rate the degree of  
17 functional limitation resulting from the impairment in four broad areas: the ability to (1)  
18 understand, remember, or apply information, (2) interact with others, (3) concentrate, persist, or  
19 maintain pace, and (4) adapt or manage oneself. 20 C.F.R. § 404.1520a(c). If the ALJ rates the  
20 degree of functional limitation in these areas as "none" or "mild," the ALJ will generally find the  
21 impairment is not severe, unless the evidence otherwise indicates there is more than a minimal  
22 limitation in the plaintiff's ability to do basic work activities. 20 C.F.R. § 404.1520a(d).

1 The ALJ found plaintiff had the medically determinable mental impairments of bipolar  
2 disorder and generalized anxiety disorder. Tr. 944. The ALJ concluded, however, plaintiff's  
3 mental impairments caused no difficulty in the ability to understand, remember, or apply  
4 information, and mild difficulty in the other three areas and were therefore not severe. *Id.* The  
5 ALJ found plaintiff's functional limitations and restricted daily activities resulted primarily from  
6 plaintiff's physical impairments, and the medical evidence showed plaintiff had received  
7 minimal conservative treatment through medication but did not require inpatient hospitalizations  
8 or outpatient therapy to control the symptoms of her mental impairments. *Id.* The ALJ further  
9 found the medical opinions regarding plaintiff's mental limitations, which opined that plaintiff  
10 had moderate to marked mental limitations, were unpersuasive. *Id.* at 945-48.

11 The ALJ concluded plaintiff's mental impairments were not severe by ignoring, rejecting,  
12 or minimizing all the evidence of limitations caused by those impairments. The evidence shows  
13 plaintiff has been diagnosed with serious mental impairments, that she has taken numerous  
14 medications to treat these conditions, including antipsychotics, antidepressants, and anti-anxiety  
15 medications, and these medications have been changed and adjusted throughout the relevant  
16 period. In addition, psychological evaluations resulted in opinions that plaintiff's mental  
17 impairments caused her moderate to marked limitations. The ALJ discounted the medical  
18 opinions regarding her mental functioning as unpersuasive, for reasons that largely mirror the  
19 erroneous reasons he used to discount other medical opinions. And the ALJ relied on his  
20 erroneous assessment of plaintiff's credibility. The ALJ noted plaintiff did not require inpatient  
21 hospitalization or engage in regular therapy during the relevant period, but there is no  
22 requirement that a mental impairment rise to the level of requiring hospitalization or any level of  
23 engagement with therapy to be severe. The ALJ seems to have imposed a level of scrutiny far

1 greater than the *de minimis* screening device step two is intended to be. Plaintiff's claims of  
2 having severe mental impairments are not groundless claims that should be dismissed at step  
3 two. The ALJ erred by finding that plaintiff had no severe mental impairments.

4 The Commissioner argues any error in the ALJ's assessment of plaintiff's mental  
5 impairments is harmless because the ALJ proceeded beyond step two and considered plaintiff's  
6 mental impairments throughout the sequential evaluation, and that even if plaintiff's mental  
7 impairments are severe, the ALJ need not include any mental limitations in the RFC finding.  
8 Dkt. 16 at 19. But the Commissioner has pointed to nothing in the decision to support the  
9 assertion the ALJ considered plaintiff's mental impairments despite finding them not severe.  
10 And a reviewing court may not make independent findings based on the evidence before the ALJ  
11 to conclude that the ALJ's error was harmless. *Brown-Hunter*, 806 F.3d at 492. The Court  
12 declines to in the first instance that plaintiff had no mental limitations that needed to be included  
13 in the RFC findings. The ALJ's error in finding plaintiff had no severe mental impairments was  
14 not harmless.

#### 15 **D. Remand for further proceedings**

16 Plaintiff argues this case should be remanded for an immediate award of benefits. Dkt. 10  
17 at 20. The Court may remand for an award of benefits where (1) the record has been fully  
18 developed and further administrative proceedings would serve no useful purpose, (2) the ALJ has  
19 failed to provide legally sufficient reasons for rejecting evidence, whether claimant testimony or  
20 medical opinion, and (3) if the improperly discredited evidence were credited as true, the ALJ  
21 would be required to find the claimant disabled on remand. *Garrison v. Colvin*, 759 F.3d 995,  
22 1020 (9th Cir. 2014). Courts have flexibility in applying this rule and may instead remand for  
23

1 further proceedings where the record as a whole “creates serious doubt that a claimant is, in fact,  
2 disabled.” *Id.* at 1021.

3 The court finds remand for an award of benefits is not appropriate at this point. Although  
4 the record has been fully developed and the ALJ failed to provide legally sufficient reasons to  
5 reject evidence, it is not clear that even if the improperly rejected evidence were credited as true,  
6 the ALJ would be required to find plaintiff disabled. Rather, the court finds that further  
7 administrative proceedings would be useful in order to allow the ALJ to properly evaluate the  
8 limitations caused by plaintiff’s mental impairments as well as to reevaluate the improperly  
9 rejected evidence related to plaintiff’s migraines and fibromyalgia. Accordingly, the court finds  
10 that remand for further administrative proceedings is the proper remedy.

### 11 CONCLUSION

12 For the foregoing reasons, the Commissioner’s decision is **REVERSED** and this case is  
13 **REMANDED** for further administrative proceedings under sentence four of 42 U.S.C. § 405(g).  
14 On remand, the ALJ shall reevaluate plaintiff’s mental impairments and shall reevaluate the  
15 improperly rejected opinion evidence and plaintiff’s testimony. The ALJ shall further develop  
16 the record, reassess RFC as needed and proceed with the five-step disability evaluation process  
17 as the ALJ deems necessary and appropriate to issue a new decision.

18 DATED this 2nd day of June, 2025.

19  
20   
21 \_\_\_\_\_  
22 BRIAN A. TSUCHIDA  
23 United States Magistrate Judge